

SECRET

26 March 1982

MEMORANDUM FOR: Executive Director

FROM: Stanley Sporkin
General Counsel

SUBJECT: Weekly OGC Report for the DCI/DDCI

ITEMS OF MAJOR INTEREST - 20-26 MARCH 1982

Unclassified Handling of EEO Cases. A new arrangement has been worked out with the Office of Security and Director of EEO to ensure that EEO cases are handled in an unclassified manner so that the Agency will be able to invoke a states secret privilege in court if sensitive classified information is sought. Our experience has shown that EEO cases, much like anti-trust cases, demand and require discovery of massive amounts of information. This brings a considerable risk in intelligence sources and methods. In past cases, when attorneys representing employees had been given access to classified information at preliminary administrative stages, their demands had increased for more classified information. In addition, they claimed that by providing them with classified information, we in effect had waived the states secret privilege. Finally, even where there was cooperation on both sides, the presence in the records of a great deal of classified information created problems when the case reached the U.S. District Court. [REDACTED]

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Jane Doe Case. This is a district court case in which the Civil Service Commission, and Commission officials in their individual capacities, were found to have violated the constitutional due process rights of an applicant for a White House Fellowship by disseminating derogatory information about that applicant without affording the applicant a hearing to confront the information and the sources of the information. Since this case was settled by the Commission in order to protect the Commission officials from personal liability, the legal principles established by the case were never challenged in an appeal. Obviously, the applications of this case to the Intelligence Community would be intolerable. After reviewing this case, we have determined that it is not applicable to the conduct of intelligence, counterintelligence and security activities; and we have circulated an opinion to that effect within the Intelligence Community for comment. We intend to submit this opinion to the Department of Justice for its views. [REDACTED]

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Legislative Developments. Staff discussions related to conference action on the Intelligence Identities Protection Act are expected to continue this week. [REDACTED]

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The Legislation Division has initiated action to ensure that the Director and Deputy Director are included in S. 907, a bill which would provide federal criminal penalties for assaults upon Cabinet Members, judicial officials, Members of Congress, and certain Presidential staff aides. We are working to have amendments to this effect introduced when the bill reaches the Senate floor. ☐

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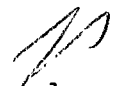
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ANTICIPATED SIGNIFICANT EVENTS - 27 MARCH-2 APRIL 1982

Former Spouses. The General Counsel will testify on Tuesday, 30 March, before the House Permanent Select Committee on Intelligence on the issue of whether Foreign Service Retirement System provisions related to the rights of former spouses should be adopted for the Central Intelligence Agency Retirement and Disability System. ☐

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Stanley Sporkin**SECRET**